

§ 1439.103 Application process.

(a) Livestock producers must submit a completed application prior to the close of business on the date established and announced by the Deputy Administrator. The application and any other supporting documentation shall be submitted to the county FSA office with administrative authority over a producer's eligible grazing land or to the county FSA office that maintains the farm records for the livestock producer.

(b) Livestock producers shall certify as to the accuracy of all the information contained in the application, and provide any other information that CCC determines to be necessary to determine the livestock producer's eligibility.

§ 1439.104 County committee determinations of general applicability.

(a) County committees shall determine whether due to natural disasters their county has suffered a 40-percent loss affecting pasture and normal grazing crops for at least 3 consecutive months during calendar year 2001 for 2001 eligibility and during calendar year 2002 for 2002 eligibility. In making this determination, county committees, using the best information available from sources including but not limited to: the Extension Service, the Natural Resources Conservation Service; the Drought Monitor; the Palmer Drought Index; and general knowledge of local rainfall data, pasture losses, grazing livestock movement out of county, abnormal supplemental feeding practices for livestock on pasture and liquidation of grazing livestock, shall determine the percentage of grazing losses for pastures on a county-wide basis. The county committee shall submit rainfall data, percentage of grazing losses for each general type of pasture, and the weighted average percentage of grazing loss for the county, with State committee concurrence, to the Deputy Administrator. The maximum grazing losses the county committees shall submit is 80 percent. These determinations shall be subject to review and approval of the Deputy Administrator. For purposes of this subpart, such counties are called "eligible counties."

(b) In each eligible county, the county committee shall determine an LAP crop year. The LAP crop year shall be that period of time in a calendar year that begins with the date grazing of new growth pasture normally begins and ends on the date grazing without supplemental feeding normally ends in the county.

(c) In and for each eligible county, the county committee shall determine

normal carrying capacities for each type of grazing or pasture during the LAP crop year. The normal carrying capacity for the LAP crop year shall be the normal carrying capacity the county committee determines could be expected from pasture and normal grazing crops for livestock for the LAP crop year if a natural disaster had not diminished the production of these grazing crops.

(d) In each eligible county, the county committee shall determine the payment period for the county. The payment period for the county shall be the period of time during the county's LAP crop year where for 3 consecutive months during 2001 or 2002, the carrying capacity for grazing land or pasture was reduced by 40 percent or more from the normal carrying capacity.

§ 1439.105 Loss criteria.

(a) Grazing land for which a livestock producer requests benefits must be within the physical boundary of a disaster county. Livestock producers in unapproved counties contiguous to an eligible county will not receive benefits under this subpart.

(b) To be eligible for benefits under this subpart, a livestock producer in an eligible county must have suffered a loss of grazing production equivalent to at least a 40-percent loss of normal carrying capacity for a minimum of 3 consecutive months.

(c) A producer shall specify each type of pasture and percentage of loss suffered by each type on the application. In establishing the percentage of grazing loss, producers shall consider the amount of available grazing production during the LAP crop year, whether more than the normal acreage of grazing land was required to support livestock during the LAP crop year, and whether supplemental feeding of livestock began earlier or later than normal.

(d) The county committee shall determine the producer's grazing loss and shall consider the amount of available grazing production during the LAP crop year, whether more than the normal acreage of grazing land was required to support livestock during the LAP crop year, and whether supplemental feeding of livestock began earlier or later than normal. The county committee shall request the producer to provide proof of loss of grazing production if the county committee determines the producer's certified loss exceeds other similarly situated livestock producers.

(e) The percentage of loss claimed by a livestock producer shall not exceed the maximum allowable percentage of

grazing loss for the county as determined by the county committee in accordance with § 1439.104(a).

Livestock producers will not receive benefits under this subpart for any portion of their loss that exceeds 80 percent of normal carrying capacity.

(f) Conservation Reserve Program acres released for haying or grazing and seeded small grain forage crops shall not be used to calculate losses under this subpart.

§ 1439.106 Livestock producer eligibility.

(a) Only one livestock producer will be eligible for benefits under this subpart with respect to an individual animal.

(b) Only owners, cash lessees, or share lessees of livestock who themselves provide the pasture or grazing land, including cash leased pasture or grazing land, for the livestock may be considered as livestock producers eligible to apply for benefits under this subpart.

(c) An owner, or cash or share lessee of livestock who uses another person to provide pasture or grazing land on a rate-of-gain basis is not considered to be the livestock producer eligible to apply for benefits under this subpart.

(d) An owner who pledges livestock as security for a loan shall be considered as the person eligible to apply for benefits under this subpart if all other requirements of this part are met. Livestock leased or being purchased under a contractual agreement that has been in effect at least 3 months and establishes an interest for the lessee in such livestock shall be considered as being owned by the lessee.

(e) Livestock must have been owned or leased for at least 3 months before becoming eligible for payment.

(f) The following entities are not eligible for benefits under this subpart:

(1) State or local governments or subdivisions thereof; or

(2) Any individual or entity who is a foreign person as determined in accordance with the provisions of §§ 1400.501 and 1400.502 of this chapter.

§ 1439.107 Calculation of assistance.

(a) The value of LAP assistance determined with respect to a livestock producer for each type and weight class of livestock owned or leased by such producer shall be the lesser of the amount calculated under paragraph (b) of this section (the total value of lost feed needs for eligible livestock) or calculated under paragraph (c) of this section (the total value of lost eligible pasture).